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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 10th February 2010

No. 996—li/1(B)-99/2001-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th December 2009 in I. D. Case No. 270 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the management of Assistant Fruit Utilisation Officer, Orissa, Bhubaneswar and their workman Shri Kailash Chandra Nath, Gotelgram, Ballianta in the District of Khurda was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 270 OF 2008

Dated the 18th December 2009

Present:

Shri P. C. Mishra, o.s.j.s. (Sr. Branch),
Presiding Officer, Industrial Tribunal,
Bhubaneswar.

Between:

The Assistant Fruit Utilisation Officer, . . . First Party—Management
Orissa, Samantrapur, Bhubaneswar.

And

Shri Kailash Chandra Nath, . . . Second Party—Workman
S/o. Late Uchhab Nath,
Vill. Gotelgram, P. O. Satyabhamapur,
P. S. Ballianta, Dist. Khurda.

Appearances :

For First Party—Management	..	None
For Second Party—Workman himself	..	Shri Kailash Chandra Nath

AWARD

Originally, the Government of Orissa in the Labour & Employment Department had referred the following dispute for adjudication by the Presiding Officer, Labour Court, Bhubaneswar vide its Order No.870—li/1 (B)-99/2001-LE., dated the 21st January 2002, but subsequently it transferred the dispute to be adjudicated by the Presiding Officer, Industrial Tribunal, Bhubaneswar vide its Order No. 4138—li/21-32/2007-LE., dated the 4th April 2008.

“Whether the termination of services of Shri Kailash Chandra Nath, N. M. R. Labour with effect from the 1st February 1999 by way of refusal of employment by the Assistant Fruit Utilisation Officer, Orissa, Samantarapur, Bhubaneswar is legal and/or justified ? If not, what relief Shri Nath is entitled to ?”

2. The case of the workman in brief is that on being selected by the management he joined under the management as a Class-IV employee on the 1st June 1981 and worked as such till the 31st January 1999 on a daily wage of Rs. 30. It is stated in the claim statement that during his continuance under the management for a long period of 18 years, the workman had rendered more than 240 days of continuous service in every year. It is alleged that when the workman made representation for payment of regular scale like that of the permanent employees, he was refused employment with effect from the 1st February 1999 in a most illegal manner, in as much as, his services were terminated without complying with the requirements of law. Further, it is alleged that violating the law the management has retained in service some junior employees. According to him, the employer having contravened the provisions of law while effecting his termination, he is entitled to reinstatement in service with full back wages.

3. Despite opportunity, the management neither appeared nor filed its written statement after the 9th August 2002. On the 9th October 2002, therefore, the management was set *ex parte*. The workman thereafter filed his evidence on affidavit and proved a copy of the letter dated the 18th March 1981 of the management calling upon him to attend the interview for the post of Class-IV as Ext. 1.

4. In his evidence on affidavit filed on the 24th April 2009, the workman has stated that after being selected in an interview he worked continuously under the management for the period from the 1st June 1981 to the 31st January 1999. In connection with his appointment under the management he referred to the document Ext. 1, which is the copy of the call letter sent to the workman by the management. The stand of the workman seems to be well substantiated through his evidence filed on affidavit. In view of the unchallenged evidence of W. W. No. 1 coupled with the documentary evidence Ext. 1, there is no escape from the conclusion that the management without complying with the provisions of Section 25-F of the

Industrial Disputes Act has terminated the services of the workman and further with utter disregard to the provisions of Section 25-G of the said Act, it has retained junior employees in its employment. Hence, while holding the action of the management to be illegal and unjustified, this Tribunal directs the management to reinstate the workman in service forthwith and to pay him Rs . 15,000 (Rupees fifteen thousand only) towards back wages. The management is directed to implement the Award within a period of one month hence.

Dictated and corrected by me.

P. C. MISHRA

18-12-2009

Presiding Officer

Industrial Tribunal, Bhubaneswar

P. C. MISHRA

18-12-2009

Presiding Officer

Industrial Tribunal, Bhubaneswar

By order of the Governor

K. C. BASKE

Under-Secretary to Government